

After reviewing the record and considering the arguments, the Appeals Board concludes that the Award by the Administrative Law Judge, granting benefits for a 5 percent permanent partial impairment to the left lower extremity, should be affirmed.

Claimant injured her left knee on March 11, 1994, while transferring a resident from a wheelchair to a recliner. Claimant was initially treated by her family physician, Jorge M. Sturich, M.D., and was then referred to James E. Marvel, M.D. Her care was ultimately transferred to Kenneth A. Jansson, M.D. Dr. Jansson performed arthroscopic surgery on claimant's left knee on July 15, 1994, and released claimant from his care in January 1995.

There is no dispute claimant suffered permanent impairment to her left-lower extremity. The sole issue on appeal is whether claimant also suffered impairment to her right lower extremity as a result of an altered gait. The Administrative Law Judge found that claimant had not suffered a compensable injury to her right lower extremity. The Appeals Board agrees.

The evidence supporting claimant's contention is the testimony of Dr. Ernest R. Schlachter who examined claimant on February 13, 1995. He took a history and found chondromalacia of the patella in both knees. He opined that because of the altered gait resulting from the left knee injury, claimant permanently aggravated the condition in her right knee.

Dr. Robert A. Rawcliffe also evaluated claimant's impairment. Dr. Rawcliffe noted that claimant walks without a limp. He found symptoms on the right but disagreed with Dr. Schlachter's conclusion that those symptoms were the result of a limp. He opined that claimant had a pre-existing condition in the right knee which had not been permanently aggravated. He also found a chronic lumbosacral strain which he concluded was not a result of claimant's work-related injury.

The Administrative Law Judge chose to rely on the opinion of Dr. Rawcliffe and the Appeals Board agrees. The Appeals Board concludes that claimant did not suffer permanent impairment to her right knee either as a result of the initial injury or as a natural and probable consequence of that injury. Dr. Rawcliffe testified that claimant had a 15 percent impairment to the left lower extremity and that 10 percent of that impairment would be attributable to a pre-existing condition. In accordance with K.S.A. 44-501(c), the amount of the pre-existing functional impairment must be deducted. The Appeals Board, therefore, finds that claimant is entitled to benefits for a 5 percent impairment of function to the left lower extremity.

AWARD

WHEREFORE, the Appeals Board finds that the Award entered by Administrative Law Judge John D. Clark, dated May 28, 1996, should be, and is hereby, affirmed.

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Kathryn R.

Haworth, and against the respondent, Cumbernauld Village, and its insurance carrier, Kansas Association of Homes for the Aging Insurance Group, Inc., for an accidental injury which occurred March 11, 1994, for 47.29 weeks of temporary total disability compensation at the rate of \$144.33 per week or \$6,825.37, followed by 7.64 weeks at the rate of \$144.33 per week or \$1,102.68, for a 5% permanent partial scheduled injury to the left leg, making a total award of \$7,928.05.

Fees necessary to defray the expenses of administration of the Workers Compensation Act are hereby assessed against the respondent to be paid as follows:

Deposition Services	
Transcript of regular hearing	\$201.50
 Bannon & Associates	
Deposition of Ernest R. Schlachter, M.D.	158.66
Deposition of Jerry Dean Hardin	169.20
 Kelley, York & Associates, Ltd.	
Deposition of Linda Cales	130.13
Deposition of Jorge M. Sturich, M.D.	172.64
Deposition of Norma Orr	207.23
Deposition of Robert A. Rawcliffe, M.D.	444.70
Deposition of Karen Terrill	150.60

IT IS SO ORDERED.

Dated this ____ day of December 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Wichita, KS
Jeffrey A. Chanay, Topeka, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director